

TOWN OF CAROLINE

Local Law No. 2 of 2007

Stormwater Management and Erosion and Sediment Control

Article 1 - General Provisions

Section 101 Findings of Fact

The Town finds that uncontrolled drainage and runoff associated with land disturbance has a significant impact upon the health, safety and welfare of the community, and quality of the environment.

It is hereby determined that:

- (1) Land disturbance activities, increases in impervious cover, and improper design and construction of drainage facilities often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, stream channel erosion, and sediment transport and erosion.
- (2) Improperly managed stormwater runoff can increase the incidence of flooding and the level of floods that occur, endangering property and human life.
- (3) Construction involving land clearing and the alteration of natural topography, particularly that near a watercourse, wetland, or on steep slopes, increases erosion leading to siltation of water bodies decreasing their capacity to hold and transport water, damaging public and private property, and harming flora and fauna.
- (4) Clearing and grading during construction can increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- (5) Loss of wetlands from land development leads to the significant loss of water quality and quantity control functions. Any decrease in wetlands reduces hydrologic absorption, storage capacity, biological and chemical oxidation sites, sedimentation and filtering functions of wetland areas.
- (6) Stormwater and the improper design and construction of stormwater management facilities can significantly increase the pollutant load to surface water and groundwater, threatening public water supplies, degrading water quality, and threatening fish and wildlife. For example, nutrients in runoff such as phosphorous and nitrogen, accelerate eutrophication of receiving waters.
- (7) Sediment from soil erosion clogs catch basins, storm sewers, and ditches and pollutes and silts streams, rivers, wetlands, lakes, reservoirs, and harbors.
- (8) The level of perviousness of a surface influences the volume and rate of stormwater runoff and allows less water to percolate into the soil, thereby decreasing groundwater recharge and stream base now.
- (9) Substantial economic losses can result from these adverse impacts on community waters.
- (10) Many future problems can be avoided if land is developed with sound stormwater runoff management practices.

Section 102 Purposes and Objectives

The purpose of this local law is to establish stormwater management requirements and standards to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the Town as well as the natural environment including groundwater and surface water, and to address the other findings of fact stated above, by achieving the following objectives:

- (1) Meet the minimum requirements of measures 4 and 5 of NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02, as amended or revised;
- (2) Require land disturbance activities to conform to the substantive requirements of the SPDES General Permit for Construction Activities GP-02-01, as amended or revised;
- (3) Prevent any net increase in the magnitude or frequency of stormwater runoff between pre-development and post-development conditions so as to prevent an increase in flood flows and in the hazards and costs associated with flooding.

- (4) Where increases occur, restrict stormwater runoff entering and leaving development sites to non-erosive velocities.
- (5) Eliminate the need for costly maintenance and repairs to roads, embankments, ditches, streams, lakes, ponds, wetlands, and stormwater control facilities resulting from inadequate control of soil erosion and stormwater runoff.
- (6) Reduce the detrimental impacts of stormwater flows on adjacent properties and downstream communities.
- (7) Prevent accelerated soil erosion and sedimentation so as to avoid its deposition in streams and other receiving water bodies.
- (8) Assure soil erosion control and stormwater runoff control systems are incorporated into site planning at an early stage.
- (9) Maintain the integrity of local drainage systems, particularly natural systems, so as to sustain their hydrologic functions.
- (10) Prevent decreases in groundwater recharge and stream base flow so as to maintain aquatic life, assimilative capacity, and water supplies.
- (11) Facilitate the removal of pollutants in stormwater runoff so as to perpetuate the natural biological and recreation functions of streams, water bodies, and wetlands.

Section 103 Statutory Authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town of Caroline has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety, or general welfare of the Town and for the protection and enhancement of its physical environment. The Town Board of Caroline may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer, and enforce such local law.

Section 104 Applicability

- (1) This local law shall be applicable to all land disturbance activities one-half acre or greater in size or part of a larger common plan as defined in this local law.
- (2) All land disturbance activities are subject to review and approval by the Code Enforcement Officer or the designated Stormwater Management Officer (SMO). The level of review will be one of the following based upon the total size of the disturbance:
 - (A) If the disturbance is between one half acre and one acre, and/or within 50' of any perennial stream or intermittent watercourse (stream corridor) or wetland already mapped by DEC and Army Corps or discovered by survey, the applicant must provide the Town SMO a brief written plan of the intended erosion control measures to be used as a result of the land disturbance, as described in the Notification of Land Disturbance form (Exhibit C). The SMO will review the submitted plan and take one of the following actions:
 1. Certify it as acceptable.
 2. Advise the applicant of any changes that need to be included in the description in order that it be accepted.
 3. Advise the applicant that due to special circumstances, enumerated by the SMO, an Erosion and Sediment Control Plan must be filed.
 - (B) If the disturbance is between one and five acres then the applicant must submit a SWPPP. If neither of the following 2 conditions are met, then a Basic SWPPP as defined in 202(2) of this local law is sufficient.
 1. Plan meets either "Condition A," "Condition B," or "Condition C," of the SPDES General Permit.
 - (a) **Condition A** - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

(b) **Condition B** - Stormwater runoff from land development activities disturbing five (5) or more acres.

(c) **Condition C** - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

2. Special circumstances, to be enumerated by the SMO.

(C) All other disturbances require a Full SWPPP be submitted to the SMO.

- (3) If expert consultation is warranted, such as by uncommon or complex site conditions, the Town may engage the services of a New York State certified engineer, or landscape architect to review the plans, specifications, and related documents pertaining to any SWPPP filed under this local law. The costs for any such review will be paid by the applicant. Such costs shall not exceed the usual and customary charges of any such certified professional.
- (4) All land disturbance activities subject to review and approval by the Subdivision Review Board of the Town of Caroline under subdivision regulations shall be reviewed subject to the standards contained in this local law.
- (5) All other land disturbance activities not subject to review by the Subdivision Review Board are subject to review by the Town Board of the Town of Caroline, and shall be reviewed subject to the standards contained in this Local Law.
- (6) Any land disturbance activity, SWPPP, or other related plan or proposal that envisions or purports to transfer, sell, assign, or grant to the Town any rights in and to any Parcel, or any interest therein, including but not limited to the dedication of any part of a Parcel, or the granting of rights-of-way or easements therein, shall be subject to the final review and approval of the Town Board.
- (7) The Town shall have the authority to enter a site to examine and survey the same for wetland characteristics before a permit is issued. During and after the permitting process, the Town shall have the right of access and entry, right to sample and inspect, right to maintain, improve and repair, right to issue emergency closure orders, right to remove impairments to the right to entry (structures, trees, brush), and the right to withhold permits and certificates pending cooperation.

Section 105 Exemptions

The following activities will be exempted from review under this law.

- (1) Agricultural activity as defined in this local law.
- (2) Logging activity undertaken pursuant to an approved timber management plan prepared or approved by the County Soil & Water Conservation District or the New York State Department of Environmental Conservation, except that landing areas and log haul roads are subject to this law.
- (3) Routine maintenance activities that disturb less than one acre and are performed to maintain the original line and grade, hydraulic capacity, or original purpose of pre-existing facilities, buildings, and/or impervious surfaces associated with these facilities and buildings.
- (4) Repairs to any stormwater management practice or facility deemed necessary by the Code Enforcement Officer or the designated Stormwater Management Officer.
- (5) Land disturbance activities for which a permit has been approved before the effective date of this law.
- (6) Cemetery graves.
- (7) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles that cumulatively disturbs less than one acre.
- (8) Emergency activity immediately necessary to protect life, property, or natural resources.
- (9) Activities of an individual engaging in home gardening by growing flowers, vegetables, and other plants primarily for use by that person and his or her family.

Article 2 - Stormwater Control

Section 201 Definitions

The following terms have the following meanings when used in this local law:

Adverse Impact - a negative impact on land or waters resulting from a construction or development activity. The negative impact may include an impairment to human or natural uses (such as increased risk of flooding, degradation of water quality, sedimentation, reduced groundwater recharge, recreational use, impacts on aquatic organisms or other resources, or threats to public health).

Agricultural Activity - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

Applicant - a property owner or agent of a property owner who has filed an application for a land disturbance activity.

Best Management Practice - a structural device, measure, facility, or activity that helps to minimize water pollution, retain valuable topsoil, and achieve soil erosion and stormwater management control objectives at a designated site.

Building - any structure, either temporary or permanent, having walls and a roof designed for the shelter of any person, animal, or property, and occupying more than 100 squared feet of area.

Channel - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clearing - any activity that removes the vegetative surface cover.

Dedication - the deliberate appropriation of property by its owner for general public use.

Department or DEC - the New York State Department of Environmental Conservation.

Design Manual - the New York State Stormwater Management Design Manual, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

Detention - temporary storage of stormwater runoff.

Detention Basin - a structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate. A detention basin may drain completely after a storm event or it may be a body of water with a fixed minimum and maximum water elevation between runoff events.

Developer - a person, corporation, organization, or agency undertaking activities covered by these regulations, or for whose benefit activities covered by these regulations are commenced and/or carried out.

Development - to make a site or area available for use by physical alteration. Development includes but is not limited to providing access to a site, clearing of vegetation, grading, earth moving, mining, excavating, providing utilities and other services such as parking facilities, stormwater management and erosion control systems, altering landforms, or constructing a structure on the land.

Drainage - the interception and removal of groundwater or surface water by natural or artificial means.

Drainage Area - a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

Erosion - the detachment, transportation, and/or management of soil or rock agents by water, wind, ice, gravity, other meteorological or geological agents, or a combination thereof.

Erosion Control Manual - the most recent version of the New York Standards and Specifications for Erosion and Sediment Control" manual, commonly know as the "Blue Book".

Erosion and Sediment Control Plan - also called "Basic SWPPP" - That portion of a SWPPP that is defined in Section 202(2) of this law.

Final Closeout – conclusion of construction activities on a particular site

First Flush - delivery of a disproportionately large load of pollutants during the early part of storms due to rapid runoff of accumulated pollutants. The first flush is defined as the runoff generated from the first half-inch

Of rainfall, from land that has been made more impervious from pre-development conditions through land grading, a change in vegetative cover, or construction /development activities.

Floodplain - the area of land that is inundated when now exceeds the capacity of the Bank Full channel.

Full SWPPP - The Basic SWPPP plus that portion that is defined in Section 202(3) of this law.

Grading - any stripping clearing, excavating, filling stockpiling, or any combination thereof, including the land in its excavated or filled condition.

High Pollutant Loading Areas - areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied; areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities.

Impervious Area/Cover - those surfaces, improvements, and structures (such as but not limited to pavement, walks, patios, terraces, decks, rooftops, tennis courts, and swimming pools) that cannot effectively infiltrate rainfall, snowmelt, and water.

Industrial Stormwater Permit - a State Pollution Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration - the downward movement or seepage of water from the surface to the subsoil and/or groundwater.

Infiltration Practice - a structure or area which allows stormwater runoff to gradually seep into the ground (such as french drains, seepage pits, pervious surfaces, infiltration basins, dry wells, or perforated pipe).

Land Disturbance Activity - any change to land that is equal to or greater than one-half acre in size or less than one-half acre but is part of a larger common plan of development and that may result in soil erosion from water or land, the movement of sediments or pollutants, or accelerated stormwater runoff including site preparation activities, stripping, land clearing, transporting, grading, excavation, filling, earth moving activities, and paving and construction of buildings or structures.

Landowner - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Larger common plan - a situation in which multiple construction activities are occurring, or will occur, on a contiguous area. For discrete construction projects that are located within a larger common plan of development or sale that are at least ¼ mile apart, each project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same "common plan" is not concurrently being disturbed.

Maintenance Agreement - a binding agreement between the land owner and the Town which provides for long-term maintenance of stormwater management practices.

Nonpoint Source Pollution - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Operator - each person or entity that owns or leases the property or parcel upon which any land disturbance activity occurs.

Outfall - the point where water flows out from a conduit, drain or stream.

Parcel - a distinct tract, lot, portion, or piece of land upon which the applicant proposes to conduct a land disturbance activity.

Peak Flow - the maximum rate of flow of water at a given point and time resulting from a storm event.

Peak Flow Attenuation - the reduction of the peak discharge of storm runoff by storage and gradual release of that storage.

Person - any individual, firm, partnership, association, public or private corporation, company, organization, or legal entity of any kind, including governmental agencies.

Phasing - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

Planning Board - the Planning Board of the Town of Caroline, New York.

Pollutant of Concern - sediment or a water quality measurement that addresses a sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land disturbance activity.

Recharge - the replenishment of underground water reserves.

Retention - a practice designed to collect and store stormwater runoff as a permanent pool of water without release except by means of evaporation, infiltration, or attenuated release when runoff volume exceeds the permanent storage capacity of the permanent pool or tank.

Retention Basin - a wet or dry stormwater holding area, either natural or human-made which does not have an outlet to adjoining watercourses or wetlands other than emergency spillways.

Riprap - a combination of large stone, cobbles, and boulders used to line channels, stabilize stream banks, and reduce runoff velocities.

Runoff - the portion of the precipitation on-site that is discharged from the site across the surface of land, pavement, or rooftops.

Sediment - solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, wind, or gravity as a product of erosion.

Sedimentation - the process or action of depositing sediment.

Site - any tract, lot, or parcel of land or combination of tracts, lots, or parcels of land proposed for development or already developed.

Source Material - any material(s) or machinery, located at an industrial facility, which is directly or indirectly related to process, manufacturing, or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery; and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

Source Water Assessment Area - An area around a water source (groundwater or surface water or both), delineated by New York State Department of Health, which supplies public water for 25 or more people for at least 60 days per year, or for 5 or more individual service connections.

SPDES General Permit for Construction Activities GP-02-01 - a permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance activity.

SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02 - a permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

Stabilization - the use of practices that prevent exposed soil from eroding.

Stop Work Order - an order issued which requires that all construction activity on a site be stopped.

Stormwater - water resulting from rain, icemelt, or snowmelt that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities or conveyed by snow removal equipment.

Stormwater Management - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources, and the environment.

Stormwater Management Facility - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

Stormwater Management Officer (SMO) - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

SWPPP - Stormwater Pollution Prevention Plan - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater Runoff - flow on the surface of the ground, resulting directly or indirectly from precipitation.

Stream Base Flow - That part of the stream flow that is not attributable to direct runoff from precipitation or melting snow; it is usually sustained by groundwater.

Stream Corridor - the landscape features on both sides of a stream, including soils, slopes, and vegetation, whose alteration can directly impact the stream's physical characteristics and biological properties.

Stripping - any activity that removes or significantly disturbs the vegetative surface cover, including clearing or grubbing operations.

Surface Waters of the State of New York - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

Survey – the process whereby the Town of Caroline Stormwater Management Officer determines, for the site in question, the soil types from the 1965 Soil Maps or future soil maps to determine if wetland supporting soils are present and observes the vegetation for flora defined by the Army Corps Wetlands Delineation Manual to determine the area of wetland. If the surveyed site meets the criteria for wetland in both of these criteria, then the area defined by vegetation will, for the purposes of this law, be the boundaries of the wetland.

Swale - low-lying grassed area with gradual slopes which transports stormwater, either on-site or off-site.

Time of Concentration - the time required for water to flow from the most remote (in time of flow) point of the site area to the outlet.

Town - the Town of Caroline, New York.

Town Board - the Town Board of the Town of Caroline, New York.

Urban Redevelopment Area - reconstruction or modification to any existing, previously developed land such as residential, commercial, industrial, institutional, or road/highway which involves soil disturbance.

Watercourse - a natural or human-made waterway, drainageway, drain, river, stream, diversion, ditch, gully, swale, or ravine having banks, a bed, and a definite direction with continuous or intermittent flow.

Watershed - total drainage area contributing runoff to a single point.

Waterway - a channel that directs surface run off to a watercourse or to the public storm drain.

Wetland - See Exhibit A for definition.

Section 202 Stormwater Pollution Prevention Plans

(1) Stormwater Pollution Prevention Plan Requirement

- (A)** No application for a land disturbance activity of one acre or more, or activities disturbing less than one acre of total land area that is part of a larger common plan of development, or as judged necessary by the SMO under 104(2)(a)(3) of this local law, shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this Local Law.
- (B)** All permanent stormwater management facilities must be constructed on-site unless an off-site stormwater control permit is granted.

(2) Contents of a BASIC Stormwater Pollution Prevention Plan

(A) Background Information

- (a)** The name, address, and telephone number of the owner and developer.
- (b)** Background information about the scope of the project, including location, tax map number for the parcel, type, and size of project.

- (c) Location for the SWPPP and all relevant records, including but not limited to inspection records, as agreed upon by the Code Enforcement Officer or designated Stormwater Management Officer, applicant, landowner, and developer.

(B) Existing Pre-Construction Conditions

- (a) Site maps at a scale no smaller than 1"100'. At a minimum, the site map should show the total site area with existing conditions for drainage on-site including topography, culverts, ditches, subwatershed boundaries, and existing vegetation. Map should also show existing buildings, structures, utilities, and paved areas as well as on-site and adjacent off-site surface water(s) and their classifications and wetlands and their classifications as well as current patterns of drainage on the immediately adjacent parcels of land and identification of receiving waters for all drainage associated with the site and the immediately adjacent parcels.
- (b) Description of the soil(s) present at the site, including most current information and data about soil classifications and their characteristics.
- (c) The presence and boundaries of a wetland shall be determined in accord with the regulated and mapped wetlands identified by the New York State Department of Environmental Conservation (DEC) and the United States Army Corps of Engineers (ACE), and by the applicable regulations and rules of the DEC and ACE, including the ACE Wetlands Delineation Manual, as now exists or as hereafter amended. The Town shall have the authority to enter a site to examine and survey the same for wetland characteristics. If evidence of a wetland occurs, either by designation, mapping, proximate location to a wetland, or by the soil, flora, and hydrographic nature of the land, then the developer may be required to initiate a Wetland Delineation in accordance with this law. Exhibit B to this law is incorporated herein as a guideline for any such delineation.
- (d) Description of the site limitations and development constraints with regard to factors, including but not limited to: slope, soil erodability, depth to bedrock depth to seasonal high water, and soil infiltration capacity.
- (e) Description and amount of existing impervious surface(s) at the site.
- (f) If the land disturbance activity is located within a designated source water assessment area for a public drinking water supply, description of the impacts to the wellhead and inner zones (or recharge areas).
- (g) Any existing data that describes the stormwater runoff at the site.
- (h) Description of pre-disturbed conditions including but not limited to visual documentation of major vegetative features and landform.

(C) Proposed Construction and Post-Construction Conditions

- (a) Site map/construction drawing(s) for the project, including a general location map. Site maps should be at a scale no smaller than 1"=100'. At a minimum, the site map should show the following for the total site area; all improvements; areas of disturbance; areas that will not be disturbed; drainage patterns that could be affected by the construction activity; post-development topography; locations of off-site material, waste, borrow, or equipment storage areas; and location(s) of the stormwater discharges.
- (b) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation, and any other activity at the site that results in soil disturbance. Consistent with the "New York Standards and Specifications for Erosion and Sediment Control" (Erosion Control Manual), not more than two acres shall be exposed by site preparation at any given time and that exposure will be kept to the shortest practical period of time.
- (c) Site maps should also include all properties within 500' and drainage patterns that could be affected by the construction activity, both on-site and off-site.
- (d) Determination and proposed mitigation of the potential impacts from the proposed development to natural features on-site and off-site, including streams, lakes, and wetlands.

- (e) Determination and proposed mitigation of the potential impacts of runoff water from the proposed development on adjacent properties.

(D) Water Quality Provisions

- (a) Description of pollution prevention measures that will be used to insure that any land development activity shall not cause an increase in turbidity that will result in any substantial visible contrast to natural conditions in surface waters of the State of New York.
- (b) Description of the pollution prevention measures that will be used to control litter, construction chemicals, and construction debris from becoming a pollutant source in stormwater runoff.
- (c) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.

(E) Erosion and Sedimentation Provisions

- (a) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project closeout.
- (b) A site map/construction drawing(s) specifying the location(s), size(s), and length(s) of each erosion and sediment control practice.
- (c) Dimensions, material specifications, and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.
- (d) Temporary practices that will be converted to permanent control measures.
- (e) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place; erosion and sediment control measures shall be constructed prior to beginning any other land disturbances. The devices shall be maintained and shall not be removed until the disturbed land areas are stabilized.
- (f) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.
- (g) Name(s) of the receiving water(s) and their classification(s).
- (h) Name and corresponding SWPPP implementation responsibilities for each part of the site.
- (i) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.

(F) Other Environmental Permits

The applicant or developer shall assure that all applicable environmental permits have been or will be acquired for the land disturbance activity prior to approval of the final Stormwater Pollution Prevention Plan.

(G) Contractor Certification

- (a) Each contractor and subcontractor identified in the SWPPP who will be involved in the land disturbance activity and/or erosion control facility installation shall sign and date a copy of the following certification statement before undertaking any land disturbance activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the attached Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards established by the State of New York, the County of Tompkins, and the Town of Caroline"

- (b) The above certification must include the name and title of the person executing the certification as well as the signature, address, and telephone number of the contracting firm; the address (or other identifying description) of the Proposed Project site; and the date the certification is made.
- (c) The above certification statement(s) shall become part of the SWPPP concerning the Proposed Project.

(H) Documentation

A copy of the SWPPP shall be retained at the site of the Proposed Project during construction, from the date of initiation of construction activities to the date of final closeout.

(3) Contents of a FULL Stormwater Pollution Prevention Plan

(A) Basic SWPPP from 202(2) in addition to the following requirements:

(B) Description of Nonstructural Stormwater Management Strategies

To the maximum extent practicable, infiltration, stormwater runoff quantity, and stormwater runoff quality standards shall be met by incorporating nonstructural stormwater management strategies into the design, if the applicant contends that it is not feasible for engineering, environmental or safety reasons to incorporate any nonstructural stormwater management measures identified in section 202 (2) ~ (a) below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities.

(a) Descriptions of nonstructural stormwater management strategies shall include:

- (i) Description of the pollution prevention measures that will be used to control litter, construction chemicals, and construction debris from becoming a pollutant source in stormwater runoff.
- (ii) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
- (iii) Dimensions, materials specifications, and installation details.

(b) Nonstructural stormwater management strategies incorporated into site design shall:

- (i) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss.
- (ii) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces.
- (iii) Maximize the protection of natural drainage features and vegetation.
- (iv) Maximize the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time required for water to flow from the most remote (in time of flow) point of the site area to the outlet.
- (v) Minimize land disturbance including clearing and grading.
- (vi) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of fertilizers and pesticides.
- (vii) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas.

- (viii) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff.
- (ix) Any non-structural strategy applied from the list above that requires continued protection or maintenance in order to function over the long term should include an appropriate written agreement to insure such protection or maintenance - either by means of a maintenance easement, deed restriction, or dedication to an appropriate government agency or land trust, as approved by the reviewing board.

(C) Structural Stormwater Management Strategies

If nonstructural stormwater management strategies alone are not sufficient to meet the standards of this Law, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

(a) Stormwater Runoff Quantity Provisions

- (i) Description of each post-construction stormwater management practice.
- (ii) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice, including, dimensions, material specifications, and installation details for each post-construction stormwater management facility. Also, a soil profile that extends from the land surface to three feet below the deepest part of the stormwater management improvements.
- (iii) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.
- (iv) Comparison of post-development stormwater runoff conditions with pre-development conditions, including:
 - (1) Description of methodology used to compare and evaluate pre- with post-development runoff conditions in terms of volumes, peak rates of runoff, routing, and hydrographs.
 - (2) Calculation of peak discharge rates and total runoff volumes from the project area for existing site conditions and post-development conditions. The relevant variables used in this determination, such as the curve number and time of concentration, as well as assumptions used in the calculations, should be included. Downstream analysis, including peak discharge rates, total runoff volumes, and evaluation of impacts to receiving water and/or wetlands should be completed. Storage volume and surface area requirements should be calculated. Discharge provisions for the proposed control measures, including peak discharge rates, outlet design, discharge capacity for each stage, outlet channel design, and a description of the point of discharge should be provided.
 - (d) For sites of 2 acres or more, stormwater management practice(s) shall be adequate to ensure no net increase in runoff between pre- and post-development conditions for storm intensities of 100, 50, 25, 10, and 2 years.
 - (e) For sites less than 2 acres, stormwater management practice(s) shall be adequate to ensure no net increase in runoff between pre- and post-development conditions for storm intensities of 25, 10, 5, and 2 years.
 - (f) The runoff volume generated for a two-year twenty-four-hour storm should be stored and gradually released for a minimum of forty-hours.
 - (g) The runoff volume generated from storm intensities 100, 50, and 25-year twenty-four-hour storms should be attenuated for a minimum of twenty-four-hours.

- (v) Groundwater recharge
 - (1) Demonstrate that to the extent practicable that groundwater recharge is maximized (through the use of measures such as, but not limited to pervious surfaces and cluster development).
 - (2) The following types of stormwater shall not be recharged:
 - (a) Stormwater from areas of high pollutant loading.
 - (b) Industrial stormwater exposed to source material.
 - (c) Significant contributing areas to groundwater supplies and identified recharge areas for drinking water supplies, unless otherwise recommended by the Town Board.

(b) Water Quality Provisions

- (i) Calculation of necessary storage volumes and the proposed stormwater management measure(s) described in sufficient detail to ensure that the water quality control design criteria will be met. Such detail may include estimated removal of contaminants (such as but not limited to total phosphorus, soluble reactive phosphorus, total nitrogen, biological oxygen demand, and thermal pollution); surface area dimensions, depth, and inlet designs; planting specifications for use of aquatic vegetation; percent solids removal expected; discharge rates; and outlet design. Include assumptions used in completing the calculations.
- (ii) Designs and calculations for siting and sizing such specialized measures and devices as filter strips, water quality inlets (oil/grit separator), forebays, etc., which will be used to remove sediment, oil-based products, and other contaminants found in runoff.
- (iii) Dimensions, material specifications, and installation details for each post-construction stormwater management facility.
- (iv) Description of the methodologies used to meet the water quality provisions referenced in Section 203 (2) of this local law (Technical Standards).

(c) Maintenance Provisions

- (i) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
- (ii) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
- (iii) Inspection and maintenance agreement binding on all subsequent landowners served by the stormwater management measures in accordance with Section 204 of this local law.

(D) Plan Certification

The SWPPP shall be prepared by a licensed landscape architect, a licensed professional engineer, or a Certified Professional in Erosion and Sediment Control and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements of this local law.

Section 203 Performance and Design Criteria and Standards

All land disturbance activities shall be subject to the following performance and design criteria:

(1) Standards

- (A) No land disturbance activity shall cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.
- (B) Performance standards required for this article shall be equivalent to the technical standards outlined in the State Pollution Discharge Elimination System (SPDES) General Permit (93-06) regulations for

construction activities as amended and revised, except where standards set forth in this section are more restrictive.

- (C) Stormwater conveyance, storage, and infiltration facilities shall be designed to provide for non-erosive velocities of stormwater runoff as appropriate for the characteristics of the site, such as slope and soil types, and as determined by a Certified Professional in Erosion and Sediment Control or licensed civil engineer.
- (D) Alterations to natural drainage patterns shall not create downstream flooding or sedimentation.
- (E) Sites should be seeded and mulched with erosion control materials, such as straw mulch, jute mesh, or excelsior (wood shavings), within three days of final grading. Maintenance should be performed as necessary to ensure continued stabilization.
- (F) If construction has been suspended (i.e., a stop work order has been issued), or sections completed, areas should be seeded immediately and stabilized with erosion control materials. Maintenance should be performed as necessary to ensure continued stabilization.
- (G) Vegetation planted with the purpose of stormwater management shall be chosen from the list in table H.5 of the New York State Stormwater Management Design Manual.

(2) Technical Standards

For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

- (A) The New York State Stormwater Management Design Manual (New York State Department of Environmental conservation, most current version or its successor, hereafter referred to as the Design Manual).
- (B) The New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

(3) Off-Site Stormwater Control

- (A) In lieu of on-site stormwater facilities and measures, the use of off-site stormwater facilities and measures, together with on-site soil erosion control, may be proposed. In such cases, the applicant shall request a waiver of the requirements for on-site stormwater runoff control. The waiver request shall be submitted to the Code Enforcement Officer or the designated Stormwater Management Officer with a permit application and a soil erosion and stormwater runoff control plan. No waivers will be granted for on-site soil erosion control.
- (B) Off-site stormwater control areas may be shared between two or more property owners or developments, provided that the Code Enforcement Officer or the designated Stormwater Management Officer has approved the required maintenance agreements and the required easements have been obtained and recorded. Easements shall be recorded with County Clerk prior to approval of the final development plan by the Town.

Section 204 Maintenance

(1) Maintenance During Construction

- (A) The applicant or developer shall at all times properly operate and maintain all facilities and systems of stormwater treatment and control (land related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- (B) For land development activities as defined in Section 201 of this local law and meeting Condition A, B or C in Section 104(B)(1), the applicant shall have a qualified professional, such as a licensed professional engineer, registered landscape architect, Certified Professional in Erosion and Sediment Control (CPESC), or soil scientist, conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Code Enforcement Officer or the designated Stormwater Management Officer and also copied to the site logbook that resides in a

location agreed upon by the applicant, landowner, developer, and Code Enforcement Officer or the designated Stormwater Management Officer.

- (C) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.
- (D) Any stormwater management facility that is deemed to be ineffectual or damaged after inspection will be repaired immediately.

(2) Maintenance Easement

Prior to the issuance of any approval that has a stormwater management Facility as one of the requirements, the applicant or developer must execute a formal Maintenance Easement Agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Caroline to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Local Law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by Town Board. The Town reserves the power to place enforcement and charge-back powers in the easement, and to assign all easements and agreements to any future drainage district.

(3) Maintenance After Construction

The owner or operator of permanent stormwater management practices installed in accordance with this law shall operate and maintain such practice so as to achieve the goals of this law. Proper operation and maintenance includes as a minimum, the following:

- (A) A preventive/corrective maintenance program for all facilities and systems of stormwater treatment and control (or related appurtenances) that are installed or used by the owner or operator to achieve the goals of this law.
- (B) Written procedures for operation and maintenance and training new maintenance personnel.
- (C) Discharges from the stormwater management practices shall not exceed design criteria or cause or contribute to a violation of water quality standards found in this local law.
- (D) Submission of "as built" plans for any stormwater management practices located on- or off-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

(4) Maintenance Agreements

The Town of Caroline shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule A of this Local Law entitled Sample Stormwater Control Facility Maintenance Agreement. The Town of Caroline, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Article 3 - Subdivision Regulation Amendment

Sections 502 and 702 of the Town of Caroline Subdivision Law are hereby amended by adding the following:

Section 301 Preliminary Plats

A Stormwater Pollution Prevention Plan (SWPPP) consistent with Articles 1 and 2 of this Local Law shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the Performance and Design Criteria and Standards in Article 2 of this Local Law. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this Local Law.

Section 302 Final Plats

A Stormwater Pollution Prevention Plan (SWPPP) consistent with Articles 1 and 2 of this Local Law and with the terms of Preliminary Plat Approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the

Performance and Design Criteria and Standards in Article 2 of this Local Law. The approved Final Subdivision Plat shall be consistent with the provisions of this Local Law.

Article 4 - Prior Laws or Ordinances

Any prior erosion or sediment containment law, ordinance, or regulations of the Town are hereby repealed. This Local Law shall take precedence over any other inconsistent requirement of any local law, ordinance, or regulation of the Town.

Article 5 - Administration and Enforcement

Section 501 Inspections

(1) Construction Inspection

(A) Erosion and Sediment Control Inspection

- (a)** The Town Code Enforcement Officer or the designated Stormwater Management Officer will require such inspections as necessary to determine compliance with this Local Law and will either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this Local Law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town enforcement official at least 48 hours before any of the following as required by the Code Enforcement Officer or the designated Stormwater Management Officer:
 - (i)** Start of construction
 - (ii)** Installation of sediment and erosion control measures
 - (iii)** Completion of site clearing
 - (iv)** Completion of rough grading
 - (v)** Completion of final grading
 - (vi)** Close of the construction season
 - (vii)** Completion of final landscaping
 - (viii)** Successful establishment of landscaping in public areas.
- (b)** Additionally, the Town may conduct random inspections during all phases of construction.
- (c)** If any violations are found, the Code Enforcement Officer or the designated Stormwater Management Officer shall notify, in writing and within 48 hours, the applicant, developer, and landowner of the nature of the violation identified and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Code Enforcement Officer or the designated Stormwater Management Officer. Additionally, the Code Enforcement Officer or the designated Stormwater Management Officer shall include in the written notification, the name, address, and phone number for the person the applicant and developer should contact regarding this notification.

(B) Stormwater Management Practice Inspections

The Town Code Enforcement Officer or the designated Stormwater Management Officer is responsible for conducting inspections of stormwater management practices.

(C) Inspection of Stormwater Facilities After Project Completion

- (a)** Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of

state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws.

- (b) Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

(D) Submission of Reports

The Town Code Enforcement Officer or the designated Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

(E) Right-of-Entry for Inspection and Repair

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection and repair. This agreement shall remain binding on all future owners of the property and will be transferred with the property deed.

Section 502 Performance Guarantee

(1) Construction Completion Guarantee

In order to ensure the full and faithful completion of all land disturbance activities related to compliance with all conditions set forth by the Town in its approval of the Stormwater Pollution Prevention Plan, the Town may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town as the beneficiary. The security shall be in an amount to be determined by the Town based on submission of final design plans, with reference to actual construction and landscaping costs. The Town can determine the amount and form of the security, in its sole discretion and without recourse. The performance guarantee shall remain in force until the surety is released from liability by the Town, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town. Per annum interest and cash escrow deposits shall be reinvested in the account until the surety is released from liability.

(2) Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a residential, commercial, or industrial facility, the developer, prior to construction, may be required to provide the Town with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town may draw upon the account to cover the costs of proper operation and maintenance, including engineering repair, and inspection costs.

(3) Record Keeping

The Town shall require those subject to this law to maintain records demonstrating compliance with this law, as defined in Sections 202 and 204 and including all inspection records, environmental permits required, and log of the timing and completion of construction activities as delineated in Section 501.

Section 503 Enforcement and Penalties

(1) Notice of Violation

When the Town determines that an approved activity is not being carried out in accordance with the requirements of this local law, it shall issue a written notice of violation within 48 hours of this determination to the applicant, landowner, and developer. The notice of violation shall contain:

- (A) The name and address of the landowner, developer, or applicant.
- (B) The address when available or a description of the building, structure, or land upon which the violation is occurring.

- (C) A statement specifying the nature of the violation.
- (D) A description of the remedial measures necessary to bring the activity into compliance with this local law and a time schedule for the completion of such remedial action.
- (E) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
- (F) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

(2) Stop Work Orders

The Town Code Enforcement Officer or the designated Stormwater Management Officer may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town Code Enforcement Officer or the designated Stormwater Management Officer confirms that the land disturbance activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

(3) Violations

Any activity that is commenced or is conducted contrary to this local law may be restrained by injunction or otherwise abated in a manner provided by law.

(4) Penalties & Fines

All provisions of New York law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this sub-section, and/except that each and any misdemeanor shall be deemed an unclassified misdemeanor. The following civil and criminal fines and penalties shall apply to any violation of the requirements or terms of this Local Law:

(A) First Violation

Any Applicant, Developer, Landowner or Operator (hereinafter collectively and/or severally "Person") that violates any of the provisions of this Local Law shall be (1) guilty of an unclassified misdemeanor and subject to a fine of not more than \$1,500.00, or (2) subject to a civil penalty of not more than \$2,500.00 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect or refusal shall continue.

(B) Second Violation

Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any other violation of this Local Law shall be deemed a second violation. Any Person that commits or permits any second violation upon the same or an adjacent Parcel shall be (1) guilty of an unclassified misdemeanor and subject to a fine of not more than \$5,000.00, or (2) subject to a civil penalty of not more than \$7,500.00 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect, or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

(C) Third and Subsequent Violations

Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any second violation of this Local Law shall be deemed a third or subsequent violation, as applicable. Any Person who commits or permits a third or subsequent violation upon the same or an adjacent Parcel shall be (1) guilty of an unclassified misdemeanor and subject to a fine not more than \$10,000.00 and a period of incarceration not to exceed 120 days, or (2) subject to a civil penalty of not more than \$15,000.00 to be recovered by the Town of Lansing in a civil action. Every such Person shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

(5) Withholding of Certificate of Occupancy

If any activity is conducted in violation of this local law the Code Enforcement Officer or the designated Stormwater Management Officer may withhold the Certificate of Occupancy.

(6) Restoration of lands

Any violator may be required to restore disturbed lands. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Article 6 - Fees for Services

The Town may require any person undertaking activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or stormwater management practice maintenance performed by the Town or performed by a third party for the Town, including but not limited to engineers' or attorneys' services and fees.

Article 7 - Application Fee

A non-refundable application fee shall be submitted with each SWPPP delivered to the Code Enforcement Officer or the designated Stormwater Management Officer, in an amount as the Town Board may, from time to time, establish by resolution.

Article 8 - Variances

The Town may grant a written variance during the review process from any requirement of this article using the following criteria:

- (1) There is documentation of special circumstances applicable to the subject property or its intended use; and
- (2) The granting of a variance will not result in:
 - (A) A significant increase or decrease in the rate or volume of surface water runoff.
 - (B) A significant adverse impact on a wetland, watercourse, or water body.
 - (C) Significant degradation of surface water and groundwater water quality.
- (3) Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in 203(2) and the SWPPP shall be prepared by a licensed landscape architect, a licensed professional engineer, or a Certified Professional in Erosion and Sediment Control.

Article 9 - Limitation upon Town Liability and Indemnity

The Town shall not be liable or responsible for any injury to persons or damage to property due to the Town's actions, or failures to act, under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a willful or intentional act of the Town. All owners and entities working upon or engaged in any clearing grading, excavation, construction, cleanup, remediation, or restoration work shall indemnify, keep and save harmless the Town from and against any and all losses, costs, damages, expenses, judgments, claims, or liabilities of any kind whatsoever which may accrue against or be charged to or recovered from the town from or by reason of or on account of accidents, injuries, damages, and/or losses to persons or property. This indemnity provision shall be construed and applied to the maximum extent permitted by law. The Town may require that any person or entity procure liability insurance in a minimum amount of \$1,000,000.00 per incident per person, and that the Town be named an additional insured thereunder.

Article 10 - Severability

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this local law.

Article 11 - Effective Date

This Local Law shall be effective upon filing with the office of the Secretary of State.

Schedule A

Sample Stormwater Control Facility Maintenance Agreement

Whereas, the Town of Caroline and _____ want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Town for the below named project, and

Whereas, the Town and Facility Owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced, and continued in perpetuity in order to ensure optimum performance of the components.

Therefore, the Town and the Facility Owner agree as follows:

1. This agreement binds the Town and the Facility Owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
2. The Facility Owner shall maintain, clean, repair, replace, and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
3. The Facility Owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
4. The Facility Owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a professional engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Town within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
5. The Facility Owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Town.
6. The Facility Owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town or in accordance with the recommendations of the inspecting engineer.
7. The Facility Owner shall provide to the Town within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of a bond, letter of credit, or escrow account.
8. This agreement shall be recorded in the Office of the County Clerk, County of Tompkins together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to _____.
9. If ever the Town determines that the Facility Owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Town or by the inspecting engineer, the Town is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
10. This agreement is effective _____.

Town Official

Date

Facility Owner

Date

EXHIBIT A

WETLAND - Any area which meets one or more of the following criteria:

1. **JURISDICTIONAL AND MAPPED WETLANDS.** Lands and waters that meet the definition provided in 24-01 07.1 of the New York State Environmental Conservation Law, "Freshwater Wetlands Act," or as amended and updated. The approximate boundaries of such lands and waters are indicated on the official wetlands map promulgated by the Commissioner of the New York State Department of Environmental Conservation, or as amended and updated. [Amended 6-26-2002 by L.L. No. 6-2002]
2. **OTHER LANDS THAT ARE DEEMED WETLANDS AFTER DELINEATION.** All areas that comprise hydric soils and/or are inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and under normal conditions do support, a prevalence of hydrophytic vegetation as defined by the Federal Interagency Committee for Wetlands Delineation, 1989, in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, Washington, DC, and adopted by the US Army Corps of Engineers, US Environmental Protection Agency, and the US Fish and Wildlife Service, or as amended and updated. Hydric soils referenced above shall include the soil types taken from the Tompkins County Soil Survey Series, 1965, or such revised, updated and adjusted soil surveys as may be completed.

WETLAND DELINEATION - The process of determining wetlands and their boundaries. The boundaries of a wetland shall be determined by procedures outlined in US Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1 (Environmental Laboratory, 1987). Identification of the general location of wetlands shall be aided by reference to: the Freshwater Wetlands Map by the New York State Department of Environmental Conservation, as amended and updated; and the Soils Map of Tompkins County - Soil Survey Series 1965, or as from time to time updated; and other maps such as the 1990 US Fish and Wildlife Service Map which assist in the location and delineation of wetlands. Wetlands not depicted on any such maps are not thereby exempted from regulation under the provisions of this chapter.

POORLY DRAINED SOILS - Those areas with somewhat poorly drained, poorly drained and very poorly drained soils as provided by data of the United States Department of Agriculture Soil Conservation Service, including but not limited to the following classifications, as may be updated or amended by the Soil Conservation Service from time to time.

EXHIBIT B

Poorly Drained Soils (Hydric)

Ab	Alluvial land
Ca	Canandaigua and Lamson soils
EcA	Ellery, Chippewa, and Alden soils, 0 to 8 percent slopes
ErA	Erie-Ellery channery silt loams, 0 to 3 percent slopes
Fm	Fresh water marsh
Ha	Halsey silt loam
Hc	Halsey mucky silt loam
Hk	Holly and Papakating soils
IcA	Ilion silty clay loam, 0 to 2 percent slopes
IcB	Ilion silty clay loam, 2 to 6 percent slopes
KnA	Kendaia and Lyons silt loams, 0 to 3 percent slopes
Ly	Lyons silt loam
Mm	Madalin mucky silty clay loam
Mn	Madalin silty clay loam
Mp	Muck and Peat
VoA	Volusia-Chippewa channery silt loams, 0 to 3 percent slope
Ws	Wayland and Sloan silt loams

Soil name and description

Alluvial land - A miscellaneous land type that consists of narrow strips of first bottom or small terrace remnants. NHEL, HYDRIC, T=5, H=.17, 5W/9

Canandaigua and Lamson soils - Any area on the map may consist of silty Canandaigua or sandy Lamson soils. Both are deep, poorly drained, neutral to slightly alkaline in the surface and have free lime in the subsoil and lower subsoil. Use is strongly limited by the poor drainage and unless artificially drained are too wet for crops. With effective tile or open ditch drainage they are productive soils for hay and corn. NHEL, T=5, K=.49, 3W/7, HYDRIC

Ellery, Chippewa, and Alden soils, 0 to 8 percent slopes - This is an undifferentiated unit of 3 poorly drained soils. Each area may be any one of the three listed or parts of all of them Ellery and Chippewa are poorly drained, Alden is very poorly drained, Ellery and Alden are associated with Erie and are distinguished by their alkaline subsoils. Chippewa is associated with Volusia, both of which are strongly acid, very low lime soils. These are all upland depressional soils developed in compact glacial till derived mainly from local shale and sandstone rocks. Most areas are too wet for cultivation and are included in permanent pasture land. Much of the acreage is still forested, PHEL T=3, K=.32, 4W/7, HYDRIC

Erie-Ellery channery silt loams, 0 to 3 percent slopes - This is a nearly level undifferentiated unit consisting of 60 to 70 percent somewhat poorly drained Erie soils, and 30 to 40 percent of Poorly drained Ellery soils. Ellery soils, with their poorer drainage, control the use of the unit since the areas cannot be worked until the wettest part is dry enough to support machinery. The soils are developed in deep glacial till derived from local rocks. The soils are moderately acid in the surface but usually neutral in the subsoil. The use is severely restricted by wetness. NHEL T=3, K=.24, 4W/6, HYDRIC

Fresh water marsh - This miscellaneous land type includes fringes and areas around ponds and lakes that are under shallow water almost continuously. They support a cover of cattails, rushes and swamp grass. They are non-agricultural but must be included in permanent pasture land. HYDRIC

Halsey silt loam - Deep, poorly drained, level, medium textured soil, developed in weakly sorted glacial outwash consisting of silty layers of sand and gravel. It is slightly acid or neutral in the surface layers and mildly calcareous in the subsoil. Halsey soils occupy low terrace positions in association with Fredon and Phelps soils. Use is severely restricted by the poor drainage. NHEL, T=5, K=.24, 3W/7, HYDRIC

Halsey mucky silt loam - A very poorly drained, deep soil, developed in weakly stratified silty sand and gravel. It is neutral in the surface and calcareous in the subsoil. It is associated with Halsey and Phelps soils on low terrace positions and has very flat or depressed topography. Use is severely restricted by very poor drainage, to permanent pasture, forestry, or wildlife habitat, NHEL, T=5, K=.24, 3W/7, HYDRIC

Holly and Papakating soils - An undifferentiated unit of poorly drained Holly and very poorly drained Papa3cating. The map areas may be all Holly or all Papakating or a mixture of both. They are deep acid soils developed in recent alluvium along streams and drainage ways where periodic flooding occurs. They are too wet for crops unless artificially drained. Drained areas make excellent corn land. Undrained, the land can be included in permanent pasture, or as marshy areas for wildlife, NHEL, T=5, K=.43, 3W/8, HYDRIC

Ilion silty clay loam, 0 to 2 percent slopes - This is a deep, poorly drained, heavy textured, neutral to mildly alkaline soil, developed in glacial till derived from local rocks mainly on flat to depressed topography that receives seepage and runoff from adjacent higher lying areas. Undrained the soil is too wet for most crops but can be used for pasture and forestry. When adequately drained it is suited to rotations used on dairy farms, The poorly drained condition is the principal limiting factor. The low depressed nature of the areas where it is developed may make improvement of drainage difficult if not impossible. NHEL, T=3, H=.37, 7E/9, HYDRIC

Ilion silty clay loam, 2 to 6 percent slopes - This is a poorly drained, gently sloping, deep, heavy textured soil, developed in glacial till derived mainly from alkaline shale. Without supplemental drainage, the soil is suited principally to pasture or woodland. With drainage it can be used for rotation common to dairy farms. Controlling water is the most important management need. In many places this will consist of controlling runoff from adjacent land with diversion ditches, PHEL, T=3, K=.37, 4W/7, HYDRIC

Kendaia and Lyons silt loams, 0 to 3 percent slopes - This is an undifferentiated unit of somewhat poorly drained Kendaia and poorly drained Lyons soils. Both soils are deep, medium textured and developed in high lime glacial till. This map unit occupies low-lying lands. The areas are small but of considerable significance since they can control the time the surrounding land is worked, This can be used for pasture or if adequately drained it becomes productive for many crops grown on dairy farms. Use limitations are those imposed by the poor drainage. NHEL, T=3, K=.32, 3W/6, Potential Hydric inclusions

Lyons silt loam - This is a deep, poorly drained, neutral to mildly alkaline soil developed in high lime glacial till on flat or depressed topography. In most areas water is at or near the surface until July. Without drainage this is non-agricultural land, when drained it is used in conjunction with the surrounding drier areas mostly for hay or pasture land. Undrained areas are suited for pasture, woodland and as a wildlife habitat. Principal limiting factor is excessive wetness. NHEL, T=5, K=.37, 4W/7, HYDRIC

Madalin mucky silty clay loam - This is a very poorly drained, deep heavy textured, alkaline soil developed in lake laid silt and clay on very flat or depressed topography. Under natural drainage conditions, cleared areas make poor pasture land, the vegetation is mainly cattails and swamp grass. The depressed topography makes drainage difficult or impossible. The serious use restrictions imposed by the very poor drainage make these areas best suited to forests and wildlife. NHEL, T=5, K=.37, 4W/7, HYDRIC

Madalin silty clay loam - This is a poorly drained, heavy textured, deep alkaline soil developed in lake laid silts and clay on flat to depressed topography, Most areas are used for pasture if not forested. Where some degree of drainage prevails, it can be used for hay and when adequately drained it is productive. It is a minor soil found with Hudson and Rhinebeck. Principal use limitations imposed by poor drainage, NHEL, T=5, K=.37, 4W/7, HYDRIC

Muck and peat - This unit consists of various kinds of organic soils, including well decomposed deposits and some partially decomposed. The organic material is more than 24 inches thick in most places, but the unit also includes intergrades to mineral soils where there is only 18 to 24 -inches of organic material over silts. Most areas of this unit are small and are scattered all over the county. None is utilized for crops because of very poor drainage. It is best used for forestry and marshy wildlife areas. NHEL, 3W/6, HYDRIC

Volusia-Chippewa channery silt loams, 8 to 3 percent slopes - This is a complex of the somewhat poorly drained Volusia soils and the poorly drained Chippewa. Both are deep, strongly acid, medium textured and formed in very low

lime glacial till. Volusia has a strongly defined fragipan layer at 8 to 10 inches that practically prevents root penetration and water movement. This layer is not as strongly expressed in Chippewa soils, Wetness limits the use of these areas, When drained it can be used for crops but needs heavy liming and fertilization for even moderate yields. NHEL, C=3, K=.24, 3W/6, Potential Hydric Inclusions

Wayland and Sloan silt loams - This is an undifferentiated unit of poorly drained Wayland and very poorly drained Sloan soils, both are formed in recent alluvial material on first bottoms of streams where they are subject to intermittent flooding. Soil material is deep and neutral to alkaline in reaction. Where drainage can be improved these areas can be cropped. For the most part however suitable outlets are not available, Undrained, the soils are best used for pasture and forest. NHEL, T=5, K=.43, 3W/8, HYDRIC

EXHIBIT C

**TOWN OF CAROLINE
NOTIFICATION OF LAND DISTURBANCE**

(of between ½ and 1 acre or within 50 feet of a stream or wetland)

Your Name: _____	Date: _____
Mailing Address: _____	_____
_____	_____
Home Phone: _____	Daytime Phone: _____

Please provide the following:

Site Tax Parcel:

Site Address: _____

Approx. Area Disturbed: _____ *sq. ft* or *acres* (circle one)

Maximum Slope on disturbance: _____ *percent*
(elevation difference / horizontal distance; example 45 degrees equals 100%)
(for moderate slopes, under 40%, elevation difference / surface distance, is OK)

Distance to stream or wetland: _____ *feet*

May code officer visit the site? Yes No (circle one)

Brief description of Work: (use back or additional sheets as necessary)

(Use back or additional sheets of paper for an optional sketch of land disturbance)

Signature: _____ **Date:** _____